



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC153

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals

Incidental to Rocky Intertidal Monitoring Surveys on the South Farallon Islands, California

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the National Ocean Service's Office of National Marine Sanctuaries Gulf of the Farallones National Marine Sanctuary (GFNMS) to take marine mammals, by harassment, incidental to rocky intertidal monitoring work and searching for black abalone, components of the Sanctuary Ecosystem Assessment Surveys.

DATES: Effective November 8, 2012, through November 7, 2013.

ADDRESSES: A copy of the authorization, application, and associated Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) and Biological Opinion may be obtained by writing to Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, telephoning the contact listed below (see FOR FURTHER INFORMATION CONTACT), or visiting the internet at:

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may also

be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 et seq.) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking, other means of effecting the least practicable impact on the species or stock and its habitat, and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as “...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review

of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization. Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: “any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].”

Summary of Request

On May 13, 2012, NMFS received an application from GFNMS for the taking of marine mammals incidental to rocky intertidal monitoring work and searching for black abalone. NMFS determined that the application was adequate and complete on July 20, 2012. On August 23, 2012, we published a notice in the Federal Register of our proposal to issue an IHA with preliminary determinations and explained the basis for the proposal and preliminary determinations (77 FR 50990). The notice initiated a 30-day public comment period. Responses are discussed below.

GFNMS proposes to continue rocky intertidal monitoring work and the search for black abalone in areas previously unexplored for black abalone for periods of 4-8 days in November 2012 and February 2013. All work will be done only during daylight minus low tides. This is a long-term study that began in 1992 and at present is anticipated to continue beyond November 2013. This IHA is only effective for a 12-month period. In future years (depending on funding), survey activities may occur in February, August, and November. For purposes of the present request, four sites will be sampled during both November and February, with two additional sites

to be sampled in February only. The following specific aspects of the activities are likely to result in the take of marine mammals: presence of survey personnel near pinniped haulout sites and approach of survey personnel towards hauled out pinnipeds. Take, by Level B harassment only, of individuals of five species of marine mammals is anticipated to result from the specified activity.

Description of the Specified Activity and Specified Geographic Region

Since the listing of black abalone as “endangered” under the U.S. Endangered Species Act (ESA; 16 U.S.C. 1531 et seq.), NMFS has requested that GFNMS explore as much of the shoreline as possible, as well as document and map the location of quality habitat for black abalone and the location of known animals. This listing prompted the need to expand the search for black abalone into other areas on the South Farallon Islands (beyond those that have been studied since 1992) to gain a better understanding of the abundance and health of the black abalone population in this remote and isolated location. The monitoring is planned to remain ongoing, and efforts to assess the status and health of the black abalone population on the South Farallon Islands may take several years, and perhaps decades, because black abalone tend to be very cryptic and difficult to find, especially when they are sparse and infrequent in occurrence. In order for the assessment of black abalone to be more comprehensive, GFNMS needs to expand shore searches in areas beyond the proximity of their quantitative quadrat sampling areas and also into new areas on Southeast Farallon and Maintop (West End) Islands. Additional information regarding the purpose of the research is contained in the Notice of Proposed IHA (77 FR 50990, August 23, 2012).

Routine shore activity will continue to involve the use of only non-destructive sampling methods to monitor rocky intertidal algal and invertebrate species abundances (see Figure 2 in

GFNMS' application). The sampling, photographic documentation, and shore walks for the period of this IHA have been scheduled to occur in November 2012 and February 2013. (In future years, surveys conducted under separate IHA(s) may occur 3 times annually: February, August, and November, based on funding.) Each survey will last for approximately 4 to 8 days. All work will be done only during daylight minus, low tides. Each location (as listed in Tables 2 and 3 in GFNMS' application) will be visited/sampled by three to four biologists, for a duration of 3-4 hours, one to two times each minus tide cycle, during November and February. The Notice of Proposed IHA contains additional information on the survey methodology (77 FR 50990, August 23, 2012). That information has not changed and is therefore not repeated here.

PRBO Conservation Science (PRBO) continues its year round pinniped and seabird research and monitoring efforts on the South Farallon Islands, which began in 1968, under MMPA scientific research permits and IHAs. GFNMS biologists will gain access to the sites via boats operated by PRBO, with disturbance and incidental take authorized via IHAs issued to PRBO. For this reason, GFNMS has not requested authorization for take from disturbance by boat, as incidental take from that activity is authorized in a separate IHA.

Specified Geographic Location and Activity Timeframe

The Farallon Islands consists of a chain of seven islands located approximately 48 km (30 mi) west of San Francisco, near the edge of the continental shelf and in the geographic center of the GFNMS (see Figure 1 in GFNMS' application). The nearshore and offshore waters are foraging areas for pinniped species discussed in this document. The two largest islands of the seven islands are the Southeast Farallon and Maintop (aka West End) Islands. These and several smaller rocks are collectively referred to as the South Farallon Islands and are the subject of this IHA.

Current areas that are sampled during November and February are: Blow Hole Peninsula; Mussel Flat; Dead Sea Lion Flat; and Low Arch (see Figure 2 in GFNMS' application). Current areas that are sampled only during February are: Raven's Cliff and Drunk Uncle Islet. Areas to be added for intensive black abalone assessment and habitat mapping sampling during November and February include: East Landing; North Landing; Fisherman's Bay; and Weather Service Peninsula on Southeast Farallon Island. Areas to be added for intensive black abalone assessment and habitat mapping during February only include: Ravens' Cliff; Indian Head; Shell Beach; and Drunk Uncle Islet (see Figure 2 in GFNMS' application). Specific dates of sampling in February and November of each year will vary, as in the past, dependent on tide conditions, boat logistics to the island, staff schedules, island housing availability, seabird breeding cycles, and at the discretion of Refuge management. Each visit will last approximately 4-8 days in November 2012 and February 2013. Additional information on the specified geographic location is contained in the Notice of Proposed IHA (77 FR 50990, August 23, 2012).

Accessing portions of the intertidal habitat may cause incidental Level B (behavioral) harassment of pinnipeds through some unavoidable approaches if pinnipeds are hauled out directly in the study plots or while biologists walk from one location to another. No motorized equipment is involved in conducting these surveys. The species for which Level B harassment is requested are: California sea lions (Zalophus californianus californianus); harbor seals (Phoca vitulina richardii); northern elephant seals (Mirounga angustirostris); Stellar sea lions (Eumetopias jubatus); and northern fur seals (Callorhinus ursinus).

Comments and Responses

A Notice of Proposed IHA was published in the Federal Register on August 23, 2012 (77 FR 50990) for public comment. During the 30-day public comment period, NMFS received one

letter from the Marine Mammal Commission. No other organizations or private citizens provided comments on the proposed issuance of an IHA for this activity. The Marine Mammal Commission recommended that NMFS issue the IHA, subject to inclusion of the proposed mitigation and monitoring measures. NMFS has included all of the mitigation and monitoring measures proposed in the Notice of Proposed IHA (77 FR 50990, August 23, 2012) in the issued IHA.

Description of Marine Mammals in the Area of the Specified Activity

Many of the shores of the two South Farallon Islands provide resting, molting, and breeding habitat for pinniped species: northern elephant seals; harbor seals; California sea lions; northern fur seals; and Steller sea lions. California sea lion is the species anticipated to be encountered most frequently during the specified activity. The other four species are only anticipated to be encountered at some of the sites. Tables 2 and 3 in GFNMS' application outline the average and maximum expected occurrences of each species at each sampling location in November and February, respectively. Numbers are based on weekly surveys conducted by PRBO. The data in these tables are from counts conducted in February and November 2010 and 2011. Figures 3, 4, and 5 in GFNMS' application depict the overlap between pinniped haulouts and abalone sampling sites. Of the five species noted here, only the eastern stock of Stellar sea lion (which is the stock found in the activity area) is listed as threatened under the ESA and as depleted under the MMPA.

We refer the public to Carretta et al., (2011) for general information on these species. The publication is available on the internet at: <http://www.nmfs.noaa.gov/pr/pdfs/sars/po2011.pdf>. Additional information on the status, distribution, seasonal distribution, and life history can also be found in GFNMS' application and

NMFS' Notice of Proposed IHA (77 FR 50990, August 23, 2012). The information has not changed and is therefore not repeated here.

California (southern) sea otters (Enhydra lutris nereis), listed as threatened under the ESA and categorized as depleted under the MMPA, usually range in coastal waters within 2 km (1.2 mi) of shore. PRBO has not encountered California sea otters on Southeast Farallon Island during the course of seabird or pinniped research activities over the past five years. This species is managed by the USFWS and is not considered further in this notice.

Potential Effects of the Specified Activity on Marine Mammals

The appearance of researchers may have the potential to cause Level B harassment of any pinnipeds hauled out on Southeast Farallon and Maintop (West End) Islands. Although marine mammals are never deliberately approached by abalone survey personnel, approach may be unavoidable if pinnipeds are hauled out in the immediate vicinity of the permanent abalone study plots. Disturbance may result in reactions ranging from an animal simply becoming alert to the presence of researchers (e.g., turning the head, assuming a more upright posture) to flushing from the haul-out site into the water. NMFS does not consider the lesser reactions to constitute behavioral harassment, or Level B harassment takes, but rather assumes that pinnipeds that move greater than 1 m (3.3 ft) or change the speed or direction of their movement in response to the presence of researchers are behaviorally harassed, and thus subject to Level B taking. Animals that respond to the presence of researchers by becoming alert, but do not move or change the nature of locomotion as described, are not considered to have been subject to behavioral harassment. NMFS' Notice of Proposed IHA (77 FR 50990, August 23, 2012) contains information regarding potential impacts to marine mammals from the specified activity. The information has not changed and is therefore not repeated here.

Typically, even those reactions constituting Level B harassment would result at most in temporary, short-term disturbance. In any given study season (i.e., November 2012 and February 2013), the researchers will visit the islands for a total of 4-8 days each of the two months, and each site is not visited during both months. Visits to each site are thus separated by several months. Each site visit typically lasts 3-4 hours. Therefore, disturbance of pinnipeds resulting from the presence of researchers lasts only for short periods of time and is separated by significant amounts of time in which no disturbance occurs. Because such disturbance is sporadic, rather than chronic, and of low intensity, individual marine mammals are unlikely to incur any detrimental impacts to vital rates or ability to forage and, thus, loss of fitness. Correspondingly, even local populations, much less the overall stocks of animals, are extremely unlikely to accrue any significantly detrimental impacts.

NMFS does not anticipate that the activities would result in the injury, serious injury, or mortality of pinnipeds because (1) the timing of research visits would preclude separation of mothers and pups for four of the pinniped species, as activities occur outside of the pupping/breeding season and (2) elephant seals are generally not susceptible to disturbance as a result of researchers' presence. In addition, researchers will exercise appropriate caution approaching sites, especially when pups are present and will redirect activities when pups are present.

Anticipated Effects on Marine Mammal Habitat

The only habitat modification associated with the activity is the quadrat locations being marked with marine epoxy. The plot corners are marked with a 3x3 cm (1.2x1.2 in) patch of marine epoxy glued to the benchrock for relocating the quadrat sites. Markers have been in place since 1993, and pinniped populations have increased throughout the islands during this

time. Maintenance is sometimes required, which consists of replenishing worn markers with fresh epoxy or replacing markers that have become dislodged. No gas power tools are used, so there is no potential for noise or accidental fuel spills disturbing animals and impacting habitats. Thus, the activity is not expected to have any habitat-related effects, including to marine mammal prey species, that could cause significant or long-term consequences for individual marine mammals or their populations.

Mitigation

In order to issue an incidental take authorization (ITA) under Section 101(a)(5)(D) of the MMPA, NMFS must, where applicable, set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

GFNMS shall implement several mitigation measures to reduce potential take by Level B (behavioral disturbance) harassment. Measures include: (1) coordinating sampling efforts with other permitted activities (i.e., PRBO and USFWS); (2) conducting slow movements and staying close to the ground to prevent or minimize stampeding; (3) avoiding loud noises (i.e., using hushed voices); (4) vacating the area as soon as sampling of the site is completed; (5) monitoring the offshore area for predators (such as killer whales and white sharks) and avoid flushing of pinnipeds when predators are observed in nearshore waters; (6) using binoculars to detect pinnipeds before close approach to avoid being seen by animals; and (7) rescheduling work at sites where pups are present, unless other means to accomplishing the work can be done without causing disturbance to mothers and dependent pups.

The methodologies and actions noted in this section will be utilized and are included as mitigation measures in the IHA to ensure that impacts to marine mammals are mitigated to the lowest level practicable. The primary method of mitigating the risk of disturbance to pinnipeds, which will be in use at all times, is the selection of judicious routes of approach to abalone study sites, avoiding close contact with pinnipeds hauled out on shore, and the use of extreme caution upon approach. In no case will marine mammals be deliberately approached by abalone survey personnel, and in all cases every possible measure will be taken to select a pathway of approach to study sites that minimizes the number of marine mammals potentially harassed. In general, researchers will stay inshore of pinnipeds whenever possible to allow maximum escape to the ocean. Each visit to a given study site will last for approximately 4 hours, after which the site is vacated and can be re-occupied by any marine mammals that may have been disturbed by the presence of abalone researchers. By arriving before low tide, worker presence will tend to encourage pinnipeds to move to other areas for the day before they haul out and settle onto rocks at low tide.

The following measures will be implemented to avoid disturbances to elephant seal pups. Disturbances to females with dependent pups can be mitigated to the greatest extent practicable by avoiding visits to those intertidal sites with pinnipeds that are actively nursing, with the exception of northern elephant seals. The time of year when GFNMS plans to sample avoids disturbance to young, dependent pups, with the exception of northern elephant seals. Thus, early February and November, at minimum, are preferable for the intertidal survey work in order to minimize the risk of harassment. Harassment of nursing northern elephant seal pups may occur but only to a limited extent. Disruption of nursing to northern elephant seal pups will occur only as biologists pass by the area. No flushing of nursing northern elephant seal pups is anticipated,

and no disturbance to newborn northern elephant seals (pups less than 1 week old) is anticipated. Moreover, elephant seals have a much higher tolerance of nearby human activity than sea lions or harbor seals. In the event of finding pinnipeds breeding and nursing, the intertidal monitoring activities will be re-directed to sites where these activities and behaviors are not occurring. This mitigation measure will reduce the possibility of takes by harassment and further reduce the remote possibility of serious injury or mortality of dependent pups.

GFNMS will suspend sampling and monitoring operations immediately if an injured marine mammal is found in the vicinity of the project area and the abalone site sampling activities could aggravate its condition.

NMFS has carefully evaluated GFNMS' proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- the manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- the practicability of the measure for applicant implementation.

Based on our evaluation of the final mitigation measures, NMFS has determined that they provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an ITA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must, where applicable, set forth “requirements pertaining to the monitoring and reporting of such taking”. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area.

Currently many aspects of pinniped research are being conducted by PRBO scientists on the Farallon Islands, which includes elephant seal pup tagging and behavior observations with special notice to tagged animals. Additional observations are always desired, such as observations of pinniped carcasses bearing tags, as well as any rare or unusual marine mammal occurrences. GFNMS’ observations and reporting will add to the observational database and on-going marine mammal assessments on the Farallon Islands.

GFNMS can add to the knowledge of pinnipeds on the South Farallon Islands by noting observations of: (1) unusual behaviors, numbers, or distributions of pinnipeds, such that any potential follow-up research can be conducted by the appropriate personnel; (2) tag-bearing carcasses of pinnipeds, allowing transmittal of the information to appropriate agencies and personnel; and (3) rare or unusual species of marine mammals for agency follow-up.

Monitoring requirements in relation to GFNMS’ abalone research surveys include observations made by the applicant. Information recorded will include species counts (with numbers of pups/juveniles), numbers of observed disturbances, and descriptions of the disturbance behaviors during the abalone surveys. Observations of unusual behaviors, numbers,

or distributions of pinnipeds on the South Farallon Islands will be reported to NMFS and PRBO so that any potential follow-up observations can be conducted by the appropriate personnel. In addition, observations of tag-bearing pinniped carcasses as well as any rare or unusual species of marine mammals will be reported to NMFS and PRBO.

If at any time injury, serious injury, or mortality of the species for which take is authorized should occur, or if take of any kind of any other marine mammal occurs, and such action may be a result of the abalone research, GFNMS will suspend research activities and contact NMFS immediately to determine how best to proceed to ensure that another injury or death does not occur and to ensure that the applicant remains in compliance with the MMPA.

A draft final report must be submitted to NMFS Office of Protected Resources within 60 days after the conclusion of the 2012-2013 field season or 60 days prior to the start of the next field season if a new IHA will be requested. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA. A final report must be submitted to the Director of the NMFS Office of Protected Resources and to the NMFS Southwest Office Regional Administrator within 30 days after receiving comments from NMFS on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding,

feeding, or sheltering [Level B harassment].

All anticipated takes would be by Level B harassment, involving temporary changes in behavior. The mitigation and monitoring measures are expected to minimize the possibility of injurious or lethal takes such that take by injury, serious injury, or mortality is considered remote. Animals hauled out close to the actual survey sites may be disturbed by the presence of biologists and may alter their behavior or attempt to move away from the researchers. No motorized equipment is involved in conducting the abalone monitoring surveys.

As discussed earlier, NMFS considers an animal to have been harassed if it moved greater than 1 m (3.3 ft) in response to the researcher's presence or if the animal was already moving and changed direction and/or speed, or if the animal flushed into the water. Animals that became alert without such movements were not considered harassed. The distribution of pinnipeds hauled out on beaches is not consistent throughout the year. The number of marine mammals disturbed will vary by month and location. PRBO obtains weekly counts of pinnipeds on the South Farallon Islands, dating back to the early 1970s. GFNMS used data collected by PRBO in February and November 2010 and 2011 (since those are the months they propose to conduct their abalone monitoring in 2012 and 2013) to estimate the number of pinnipeds that may potentially be taken by Level B (behavioral) harassment. Table 3 in GFNMS' IHA application and Table 1 here present the maximum numbers of California sea lions, harbor seals, northern elephant seals, northern fur seals, and Steller sea lions that may be present at the various sampling sites in November and February. As indicated in the table, some sites will be sampled in both months and others only in one of the two survey months. Based on this information, NMFS has authorized the take, by Level B harassment only, of 6,850 California sea lions, 175 harbor seals, 225 northern elephant seals, 20 northern fur seals, and 95 Steller sea lions. These

numbers are considered to be maximum take estimates; therefore, actual take may be slightly less if animals decide to haul out at a different location for the day or animals are out foraging at the time of the survey activities.

Negligible Impact and Small Numbers Analysis and Determination

NMFS has defined “negligible impact” in 50 CFR 216.103 as “...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.” In making a negligible impact determination, NMFS considers a variety of factors, including but not limited to: (1) the number of anticipated mortalities; (2) the number and nature of anticipated injuries; (3) the number, nature, intensity, and duration of Level B harassment; and (4) the context in which the take occurs.

No injuries, serious injuries, or mortalities are anticipated to occur as a result of GFNMS’ rocky intertidal monitoring surveys, and none are authorized. The behavioral harassments that could occur would be of limited duration, as researchers only conduct sampling two times per year for a total of 4-8 days each time. Additionally, each site is sampled for approximately 3-4 hours before moving to the next sampling site. Therefore, disturbance will be limited to a short duration, allowing pinnipeds to reoccupy the sites within a short amount of time.

Some of the pinniped species use the islands to conduct pupping and/or breeding. However, with the exception of northern elephant seals, GFNMS will conduct its abalone site sampling outside of the pupping/breeding seasons. GFNMS will implement measures to minimize impacts to northern elephant seals nursing or tending to dependent pups. Such measures will likely avoid mother/pup separation or trampling of pups.

Table 1. Estimated number of animals to be disturbed at each sampling site during each month of surveys based on maximum daily counts of pinnipeds estimated from PRBO monitoring data and the total proposed number of Level B harassment takes to be authorized for each species.

	East Landing & Blowhole Peninsula	North Landing & Fisherman's Bay	Dead Sea Lion Flat	Mussel Flat	Low Arch	Weather Service Peninsula**	Raven's Cliff**	Indian Head**	Shell Beach**	Drunk Uncle Islet & Pelican Bowl**	Proposed Level B Take
CA Sea Lion November	5	520	880	180	575	120	NA	NA	NA	NA	
CA Sea Lion February	50	35	850	110	280	215	260	775	1420	575	
Total	55	555	1730	290	855	335	260	775	1420	575	6850
Harbor Seal November	10	10	5	50	-	5	NA	NA	NA	NA	
Harbor Seal February	10	20	10	55	-	-	-	-	-	-	
Total	20	30	15	105	0	5	0	0	0	0	175
N. Elephant Seal November	-	40	25	60	45	-	NA	NA	NA	NA	
N. Elephant Seal February	-	5	5	5	5	-	-	25	10	-	
Total	0	45	30	65	50	-	0	25	10	0	225
N. Fur Seal November	-	-	-	-	-	-	NA	NA	NA	NA	
N. Fur Seal February	-	-	-	-	-	-	-	20	-	-	
Total	0	0	0	0	0	0	0	20	0	0	20
Steller Sea Lion November	-	-	10	-	-	-	NA	NA	NA	NA	
Steller Sea Lion February	-	-	15	15	5	5	5	20	20	-	
Total	0	0	25	15	5	5	5	20	20	0	95

* Estimates above are based on the SEAS team sampling each area once in each month indicated.

NA: Not applicable.

**These areas on Maintop Island (West End Island) will not be sampled in November to minimize disturbance to seabirds and marine mammals.

Of the five marine mammal species anticipated to occur in the activity areas, only the Steller sea lion is listed as threatened under the ESA. The species is also designated as depleted under the MMPA. Table 2 in this document presents the abundance of each species or stock, the authorized take estimates, and the percentage of the affected populations or stocks that may be taken by harassment. Based on these estimates, GFNMS would take less than 1% of each species or stock, with the exception of the California sea lion, which would result in an estimated take of 2.3% of the stock. Because these are maximum estimates, actual take numbers are likely to be lower, as some animals may select other haulout sites the day the researchers are present.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the required mitigation and monitoring measures, NMFS finds that the rocky intertidal monitoring program will result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from the rocky intertidal monitoring program will have a negligible impact on the affected species or stocks.

Table 2. Population abundance estimates, total authorized Level B take, and percentage of population that may be taken for the potentially affected species during the proposed rocky intertidal monitoring program.

Species	Abundance*	Total Authorized Level B Take	Percentage of Stock or Population
Harbor Seal	30,196	175	0.6
California Sea Lion	296,750	6,850	2.3
Northern Elephant Seal	124,000	225	0.2
Steller Sea Lion	58,334-72,223	95	0.1-0.2
Northern Fur Seal	9,968	20	0.2

*Abundance estimates are taken from the 2011 U.S. Pacific Marine Mammal Stock Assessments (Carretta et al., 2012).

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for

subsistence purposes.

Endangered Species Act (ESA)

There is one marine mammal species listed as threatened under the ESA with confirmed or possible occurrence in the project area: the eastern U.S. stock of Steller sea lion. NMFS' Permits and Conservation Division conducted consultation with NMFS' Endangered Species Division, Southwest Regional Office, under section 7 of the ESA on the issuance of an IHA to GFNMS under section 101(a)(5)(D) of the MMPA for this activity. In October 2012, NMFS finished conducting its section 7 consultation and issued a Biological Opinion, and concluded that the issuance of the IHA associated with GFNMS' rocky intertidal monitoring program is not likely to jeopardize the continued existence of the threatened eastern U.S. stock of Steller sea lion or result in the destruction or adverse modification of critical habitat for the species. The mitigation measures included in the final IHA have also been included in the Incidental Take Statement provided with the Biological Opinion.

National Environmental Policy Act (NEPA)

NMFS has prepared an EA that includes an analysis of potential environmental effects associated with NMFS' issuance of an IHA to GFNMS to take marine mammals incidental to conducting rocky intertidal monitoring surveys on the South Farallon Islands, California. NMFS has finalized the EA and prepared a FONSI for this action. Therefore, preparation of an Environmental Impact Statement is not necessary.

Authorization

As a result of these determinations, NMFS has authorized the take of marine mammals incidental to GFNMS' rocky intertidal and black abalone monitoring research activities, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: November 8, 2012.

Helen M. Golde,
Acting Director,
Office of Protected Resources,
National Marine Fisheries Service.

[FR Doc. 2012-27817 Filed 11/14/2012 at 8:45 am; Publication Date: 11/15/2012]